

**ASSEMBLY BILL**

**No. 1560**

**Introduced by Assembly Member Calderon**

February 22, 2005

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An act to amend Section 4303 of the Commercial Code, relating to commercial law.

LEGISLATIVE COUNSEL'S DIGEST

AB 1560, as introduced, Calderon. Commercial law: banks.

Existing commercial law regulates the payment of checks by banks. Under these provisions, items may generally be accepted, paid, certified, or charged to an account of a customer in any order, except as otherwise provided.

This bill would modify these provisions to prohibit a bank, after the close of the business day, from posting debits to a customer's account in a manner that will cause the customer to pay additional fees to the bank for lack of sufficient funds than if the bank had processed the checks in numerical order.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 4303 of the Commercial Code is  
2 amended to read:  
3 4303. (a) Any knowledge, notice, or stop-payment order  
4 received by, legal process served upon, or setoff exercised by a  
5 payor bank comes too late to terminate, suspend, or modify the  
6 bank's right or duty to pay an item or to charge its customer's  
7 account for the item if the knowledge, notice, stop-payment

1 order, or legal process is received or served and a reasonable  
2 time for the bank to act thereon expires or the setoff is exercised  
3 after the earliest of the following:

4 (1) The bank accepts or certifies the item.

5 (2) The bank pays the item in cash.

6 (3) The bank settles for the item without having a right to  
7 revoke the settlement under statute, clearing house rule, or  
8 agreement.

9 (4) The bank becomes accountable for the amount of the item  
10 under Section 4302 dealing with the payor bank's responsibility  
11 for late return of items.

12 (5) With respect to checks, a cutoff hour no earlier than one  
13 hour after the opening of the next banking day after the banking  
14 day on which the bank received the check and no later than the  
15 close of that next banking day or, if no cutoff hour is fixed, the  
16 close of the next banking day after the banking day on which the  
17 bank received the check.

18 (b) Subject to subdivision (a), items may be accepted, paid,  
19 certified, or charged to the indicated account of its customer in  
20 any order, *except that, in the process of posting credits and debits*  
21 *against a checking account used primarily for personal, family,*  
22 *or household purposes, a bank may not, after the close of the*  
23 *business day, post debits in a manner that will cause the*  
24 *customer to pay additional fees to the bank for lack of sufficient*  
25 *funds than if the bank had processed the checks in numerical*  
26 *order.*